

SENATE BILL No. 267

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-17-10; IC 6-1.1-17-16; IC 6-1.1-18.

Synopsis: Cap on property tax increases. Limits budget, property tax levy, and property tax rate growth to the sum of 2% plus the rate of inflation. Provides for department of local government finance review of the budgets, levies, and tax rates of all political subdivisions imposing an ad valorem property tax levy.

Effective: July 1, 2004.

Miller

January 8, 2004, read first time and referred to Committee on Finance.

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Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

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SENATE BILL No. 267

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-17-10, AS AMENDED BY P.L.90-2002,
2 SECTION 151, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2004]: Sec. 10. ~~When the aggregate tax rate~~
4 ~~within a political subdivision, as approved or modified by the county~~
5 ~~board of tax adjustment, exceeds the maximum aggregate tax rate~~
6 ~~prescribed in IC 6-1.1-18-3(a),~~ The county auditor shall certify the
7 budgets, **property** tax rates, and **property** tax levies of the political
8 subdivisions ~~whose tax rates compose the aggregate tax rate within the~~
9 ~~political subdivision, as approved or modified by the county board,~~
10 **that impose an ad valorem property tax** to the department of local
11 government finance for final review. ~~For purposes of this section, the~~
12 ~~maximum aggregate tax rate limit exceptions provided in~~
13 ~~IC 6-1.1-18-3(b) do not apply.~~

14 SECTION 2. IC 6-1.1-17-16, AS AMENDED BY P.L.256-2003,
15 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2004]: Sec. 16. (a) Subject to the limitations and requirements
17 prescribed in this section, the department of local government finance

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1 may revise, reduce, or increase a political subdivision's budget, tax rate,
 2 or tax levy which the department reviews under section 8 or 10 of this
 3 chapter.

4 (b) Subject to the limitations and requirements prescribed in this
 5 section, the department of local government finance may review,
 6 revise, reduce, or increase the budget, tax rate, or tax levy of any of the
 7 political subdivisions whose tax rates compose the aggregate tax rate
 8 within a political subdivision whose budget, tax rate, or tax levy is the
 9 subject of an appeal initiated under this chapter.

10 (c) Except as provided in subsection (j), before the department of
 11 local government finance reviews, revises, reduces, or increases a
 12 political subdivision's budget, tax rate, or tax levy under this section,
 13 the department must hold a public hearing on the budget, tax rate, and
 14 tax levy. The department of local government finance shall hold the
 15 hearing in the county in which the political subdivision is located. The
 16 department of local government finance may consider the budgets, tax
 17 rates, and tax levies of several political subdivisions at the same public
 18 hearing. At least five (5) days before the date fixed for a public hearing,
 19 the department of local government finance shall give notice of the
 20 time and place of the hearing and of the budgets, levies, and tax rates
 21 to be considered at the hearing. The department of local government
 22 finance shall publish the notice in two (2) newspapers of general
 23 circulation published in the county. However, if only one (1)
 24 newspaper of general circulation is published in the county, the
 25 department of local government finance shall publish the notice in that
 26 newspaper.

27 (d) Except as provided in subsection (i), IC 6-1.1-19, or
 28 IC 6-1.1-18.5, the department of local government finance may not
 29 increase a political subdivision's budget, tax rate, or tax levy to an
 30 amount which exceeds the amount originally fixed by the political
 31 subdivision. The department of local government finance shall give the
 32 political subdivision written notification specifying any revision,
 33 reduction, or increase the department proposes in a political
 34 subdivision's tax levy or tax rate. The political subdivision has one (1)
 35 week from the date the political subdivision receives the notice to
 36 provide a written response to the department of local government
 37 finance's Indianapolis office specifying how to make the required
 38 reductions in the amount budgeted for each office or department. The
 39 department of local government finance shall make reductions as
 40 specified in the political subdivision's response if the response is
 41 provided as required by this subsection and sufficiently specifies all
 42 necessary reductions. The department of local government finance may

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1 make a revision, a reduction, or an increase in a political subdivision's
 2 budget only in the total amounts budgeted for each office or department
 3 within each of the major budget classifications prescribed by the state
 4 board of accounts.

5 (e) The department of local government finance may not approve a
 6 levy for lease payments by a city, town, county, library, or school
 7 corporation if the lease payments are payable to a building corporation
 8 for use by the building corporation for debt service on bonds and if:

- 9 (1) no bonds of the building corporation are outstanding; or
 10 (2) the building corporation has enough legally available funds on
 11 hand to redeem all outstanding bonds payable from the particular
 12 lease rental levy requested.

13 (f) The department of local government finance shall certify its
 14 action to:

- 15 (1) the county auditor; and
 16 (2) the political subdivision if the department acts pursuant to an
 17 appeal initiated by the political subdivision.

18 (g) The following may petition for judicial review of the final
 19 determination of the department of local government finance under
 20 subsection (f):

- 21 (1) If the department acts under an appeal initiated by a political
 22 subdivision, the political subdivision.
 23 (2) If the department acts under an appeal initiated by taxpayers
 24 under section 13 of this chapter, a taxpayer who signed the
 25 petition under that section.
 26 (3) If the department acts under an appeal initiated by the county
 27 auditor under section 14 of this chapter, the county auditor.

28 The petition must be filed in the tax court not more than forty-five (45)
 29 days after the department certifies its action under subsection (f).

30 (h) The department of local government finance is expressly
 31 directed to complete the duties assigned to it under this section not later
 32 than February 15th of each year for taxes to be collected during that
 33 year.

34 (i) Subject to the provisions of all applicable statutes, the
 35 department of local government finance may increase a political
 36 subdivision's tax levy to an amount that exceeds the amount originally
 37 fixed by the political subdivision if the increase is:

- 38 (1) requested in writing by the officers of the political
 39 subdivision;
 40 (2) either:
 41 (A) based on information first obtained by the political
 42 subdivision after the public hearing under section 3 of this

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chapter; or

(B) results from an inadvertent mathematical error made in determining the levy; and

(3) published by the political subdivision according to a notice provided by the department.

(j) The department of local government finance shall annually review the budget of each school corporation not later than April 1. The department of local government finance shall give the school corporation written notification specifying any revision, reduction, or increase the department proposes in the school corporation's budget. A public hearing is not required in connection with this review of the budget.

(k) The department of local government finance shall decrease the budget, levies, and tax rates of a taxing unit as necessary to comply with the levy limit imposed by IC 6-1.1-18-13. In complying with this subsection, the department of local government finance may not decrease any part of the budget, levies, or tax rates necessary to meet the obligations of a taxing unit under a lease agreement or bond or other loan agreement entered into before March 15, 2004.

SECTION 3. IC 6-1.1-18-3, AS AMENDED BY P.L.224-2003, SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Except as provided in subsection (b), the sum of all tax rates for all political subdivisions imposed on tangible property within a political subdivision may not exceed:

(1) forty-one and sixty-seven hundredths cents (\$0.4167) on each one hundred dollars (\$100) of assessed valuation in territory outside the corporate limits of a city or town; or

(2) sixty-six and sixty-seven hundredths cents (\$0.6667) on each one hundred dollars (\$100) of assessed valuation in territory inside the corporate limits of a city or town.

(b) **Subject to section 13 of this chapter**, the proper officers of a political subdivision shall fix tax rates which are sufficient to provide funds for the purposes itemized in this subsection. The portion of a tax rate fixed by a political subdivision shall not be considered in computing the tax rate limits prescribed in subsection (a) if that portion is to be used for one (1) of the following purposes:

(1) To pay the principal or interest on a funding, refunding, or judgment funding obligation of the political subdivision.

(2) To pay the principal or interest on an outstanding obligation issued by the political subdivision if notice of the sale of the obligation was published before March 9, 1937.

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(3) To pay the principal or interest upon:

(A) an obligation issued by the political subdivision to meet an emergency which results from a flood, fire, pestilence, war, or any other major disaster; or

(B) a note issued under IC 36-2-6-18, IC 36-3-4-22, IC 36-4-6-20, or IC 36-5-2-11 to enable a city, town, or county to acquire necessary equipment or facilities for municipal or county government.

(4) To pay the principal or interest upon an obligation issued in the manner provided in IC 6-1.1-20-3 (before its repeal) or IC 6-1.1-20-3.1 through IC 6-1.1-20-3.2.

(5) To pay a judgment rendered against the political subdivision.

(6) To meet the requirements of the family and children's fund for child services (as defined in IC 12-19-7-1).

(7) To meet the requirements of the county hospital care for the indigent fund.

(8) To meet the requirements of the children's psychiatric residential treatment services fund for children's psychiatric residential treatment services (as defined in IC 12-19-7.5-1).

(c) Except as otherwise provided in IC 6-1.1-19 or IC 6-1.1-18.5, a county board of tax adjustment, a county auditor, or the department of local government finance may review the portion of a tax rate described in subsection (b) only to determine if it exceeds the portion actually needed to provide for one (1) of the purposes itemized in that subsection.

SECTION 4. IC 6-1.1-18-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. **(a)** If there is a conflict between the provisions of this chapter **(other than a conflict with section 12 or 13 of this chapter)** and the provisions of IC 6-1.1-19 or IC 6-1.1-18.5, the provisions of the latter two (2) chapters control with respect to the adoption of, review of, and limitations on budgets, tax rates, and tax levies.

(b) If there is a conflict between section 12 or 13 of this chapter and any other law, unless the other law, through language enacted in an act adopted after March 15, 2004, expressly states otherwise, the provisions of sections 12 and 13 of this chapter control with respect to the adoption of, review of, and limitations on the budget, tax rates, and tax levies of a taxing unit.

SECTION 5. IC 6-1.1-18-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. **(a) This section applies to all political subdivisions (as defined in IC 36-1-2-13).**

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(b) In addition to complying with any other property tax levy limits or tax rate limits imposed by law, a taxing unit must comply with the property tax levy limit imposed by this section.

(c) The total of all property tax levies imposed by a taxing unit in a year, as determined by the department of local government finance in fixing the taxing unit's budget, tax levies, and tax rates for the preceding calendar year under IC 6-1.1-17, may not exceed the total of all property tax levies imposed by the taxing unit in the immediately preceding calendar year, as determined by the department of local government finance in fixing the taxing unit's budget, tax levies, and tax rates for the preceding calendar year under IC 6-1.1-17, multiplied by the sum of:

(1) the taxing unit's assessed value growth quotient determined in the manner provided by IC 6-1.1-18.5-2 for civil taxing units; plus

(2) two hundredths (0.02).

Any amount collected that exceeds the levy limit imposed by this section shall be deposited in a levy excess fund and shall be used to reduce property taxes in the subsequent year. Subject to IC 6-1.1-17-16(k), the levy excess shall be deducted from each fund of the taxing unit in proportion to the amount of the levy for that fund.

SECTION 6. [EFFECTIVE JULY 1, 2004] IC 6-1.1-18-13, as added by this act, applies only to property taxes first due and payable after December 31, 2004.

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